



THE AFFORDABLE HOUSING STUDY COMMISSION
Dedicated to Promoting Affordable Housing in Florida Since 1986

**Affordable Housing Study Commission
Meeting Summary
November 2 and 3, 2005
Tampa, FL**

Commissioners Attending:

Helen Feinberg (Chair), Gus Dominguez, Howie Carroll, Jill Collins, Michael Davis, Robert Gregg, Priscilla Howard, Ann Kashmer, Darlene Pifalo, George Romagnoli, Santos De La Rosa, Jane Johnson, Joe Campus, Robin Lunn, Sharon Jenkins-Owen, Ellen Ramsey

Staff:

Odetta MacLeish-White, Nancy Muller

Ad Hoc Workgroup Members Attending:

Stan Fitterman, Debra Reyes

Speakers/Guests:

Amy Barry, Fannie Mae

Public Attending:

William O'Dell, Shimberg Center; Joy Beaton, Florida Community Loan Fund; Ignacio Esteban, Florida Community Loan Fund; Doug McCree, First Housing; Ryan Haynes, Highlands Co. Housing Authority

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November 2, 2005

Meeting convened at 1:15 p.m.

The meeting opened with introductions and welcome to the new Commissioners, Robin Lunn and Joe Campus.

Amy Barry, Senior Multifamily Manager from Fannie Mae, presented information on the national trends being observed in low income housing tax credit preservation projects and the deal structures Fannie Mae requires in their mission portfolios. There are four mission portfolios in Fannie Mae's multifamily department including a Housing Preservation Fund. This fund recently closed after investing \$200 million in HUD 202 and 811 conversions.

Some of the trends being observed in the national LIHTC market are:

- Pricing is now going over \$1 which has resulted in over funded deals in some states;
- Preservation deals are not high scoring in state qualified allocation plan;

- More LIHTC deals are closing in the 3rd and 4th quarters of the year, which means there might not be as much time to complete deals in the required LIHTC time frame; and
- Hurricane displaced residents are being absorbed into markets which may create a false sense that the market in certain areas is stronger than it really is.

A major policy issue is the re-population of a property when a Section 8 HAP contract ends. With the end of the HAP contract, the property may begin to move in families who can afford a higher rent. This creates a displaced population but the higher rents may be needed to make a property financially feasible. The end of HAP contracts is taken into consideration in Fannie Mae underwriting which looks at the ability to maintain higher rents and the presence of sufficiently high reserves to keep the property financially sound.

In connection with the underwriting factors utilized by Fannie Mae for preservation deals, Ms. Barry pointed out two issues:

- Preservation deals need to work at rents set at 60-80% below market rate, to create the room needed to raise rents when necessary; and
- HUD clearance form 2530 (required for each individual in the ownership structure of a deal receiving any federal or HUD funding) can add considerable time to the deal.

In connection with HUD 202 Preservations, strong non-profits can take multiple properties and combine them into one allocation. Higher reserves may be required and there are risks in this bundling concept – if one property in the group is not doing well, the entire portfolio may be negatively impacted. 202 deals must also grapple with aging in place issues and how to fund these amenities or programs, because LIHTC can't be used to pay for medical care. It will be important to manage converted 202 properties carefully to avoid morphing into an assisted living facility.

Fannie Mae also has a Market Rate Equity fund, which acts as a shorter term preservation tool. MRE invests in properties requiring moderate to substantial rehab that typically rent at or below 80% AMI. This fund attempts to focus on the preservation of affordable housing. MRE funds either direct investments (Fannie Mae becomes a direct LP of the owning partnership of the property) or investments through funds (Fannie Mae is the Limited Partner of a Fund with the General Partner being another company). As a direct investor, capital would be issued directly to the GP/sponsor of the property. As a Fund investor, capital would be issued to the syndication firm who then issues the capital to the GP/Sponsor of the property. MRE financing requires affordability periods of only 4-8 years, but other funding programs requiring longer affordability periods could be layered on to the deal.

Workgroups Breakout Session

Following Ms. Barry's presentation, the Commission spent the afternoon meeting as the Capacity and Finance Workgroups. Notes from these sessions and the sessions held on the morning of Nov. 3 are attached to this summary as Attachments A and B.

Public Comment

There was no public comment.

Review of Stakeholders Meeting

Given the success of the format at the Sept. 14, 2005 meeting, the Commission agreed that future Stakeholders Meetings should be held at breakfast in conjunction with the Florida Housing Coalition annual conference.

Meeting adjourned at 6:00 pm.

November 3, 2005

Meeting convened at 8:45 am.

Legislative Update

Commissioner Ramsey reported on the situation with the HUD Operational Funds formula. The new formula will give Florida PHAs a larger allocation of the overall available operational funds, but large Northeastern PHAs are blocking implementation of the formula. These PHAs will be receiving less funding under the new formula but they have historically been over funded. Commissioner Ramsey requested a letter of support from the Study Commission for Florida Association of Housing and Redevelopment Officers' position, which is that HUD should implement the new funding formula.

Commissioner Dominguez moved that the letter be written in the context of the Commission's preservation work with information from Commissioner Ramsey. Commissioner Collins seconded and the motion passed unanimously.

Nancy Muller, Policy Director for Florida Housing, reported that Florida Housing will be submitting amendments to Chapter 420 of the Florida statutes to effect the following changes:

- Re-define "Farmworker" to more closely match the Rural Development definition of Farmworker;
- Revise the definition of Large County as a county with a population of 825,000;
- Change set aside requirements in the Home Ownership Assistance program to target 30% at 65% AMI and lower; and
- Allow SHIP programs to use either US Treasury purchase limits or the purchase limits identified in an independent study.

Ms. Muller further reported that Florida Housing is submitting a budget of \$243 million (the cap currently set by the Legislature to take effect in 2007) to the Legislature. This figure does not include additional hurricane recovery funding. She also reported that there has been more interest than ever before from legislators about workforce housing – especially home ownership opportunities for populations such as teachers, police, firefighters. Florida Housing has expressed that more funding will be needed to cover the gap between purchase prices and existing subsidy programs to make home ownership possible.

Finally, Ms. Muller reported that Florida Housing is taking a neutral position on the Florida Association for Homes for the Aging bill which would lower match requirement from 15% to 5% in the Elderly Housing Community Loan program. The program has been modified to increase the per loan limit to \$750,000.

The Commission briefly discussed the recently released report of the President's Tax Reform Advisory Panel, which suggests elimination of the low income housing tax credit program.

Hurricane Recovery Update

Ms. Muller reported that there are indications that there may be additional funding for hurricane recovery. Commissioner Howard suggested that a review be conducted of the effectiveness of current allocations before additional funds are distributed.

Workgroups Breakout Session

Following the Legislative Update, the Commission met as the Finance and Capacity Workgroups to continue examining issues and begin drawing preliminary conclusions.

Before adjourning at 12:00 p.m., the Workgroups reconvened to share conclusions and findings.

ATTACHMENT A

Capacity Workgroup Notes Nov. 2 and 3, 2005

COMMUNITY REDEVELOPMENT ACT/TAX INCREMENT FUNDING (TIF)

- Agencies have been sued to force them to include affordable housing in their CRA plans (Leesburg, Cocoa, Tampa)
- Low income neighborhoods perceive they are used to obtain a CRA designation but the TIF monies raised are not spent in those areas.
- There is an issue of oversight to ensure funds are being used appropriately, as outlined in CRA plan.
- Affordable housing advocates need to be educated about the availability of TIF funding so they will request it from the CRA board.
- An important question is whether preserved housing would increase the tax base in the CRA district?

CRA conclusions

- CRA is a possible funding source for the preservation of MF affordable housing
- p.1-34 of Meeting Packet 163.387 Sect 7(d) indicates uses of unspent funds. It could be recommended that a percentage of the unspent funds be dedicated to preservation of affordable housing.
- Develop a recommended percentage of each CRA annual budget that would fund preservation (what would this amount be and will it be enough to make a difference?)
- p. 1-11 of Meeting Packet 163.360 Sect 2(c) amended to provide for development of “or preservation of” affordable housing. Would have to add a definition of preservation and of affordable housing.

Most importantly, political will on the part of the CRA boards and the local government would be needed to make any of these changes happen.

Possible recommendation:

A specific percentage of TIF should be designated by the CRA agency for affordable housing preservation (an amount that can be completely used and in an effective manner)

NOTICE POLICIES

Conclusions

- Two years notice – this is the minimum amount of time needed to put a deal together
- Parties receiving notice should include:
 - Florida Housing
 - Florida Housing Coalition
 - Residents
 - Local governments
 - Shimberg Center
- Residents should receive a true right of first refusal, rather than just a right of first offer

- Getting owners to comply will be a challenge; can incentives be created to promote compliance rather than mandates? Rhode Island uses their notice statute to promote conversations with property owners about preservation.
- If owners will not comply with the statute, sanctions should be available. They should be monetary (perhaps a percentage of sale price, taken out of closing proceeds).
- It was suggested at the Sept. 1, 2005 meeting that the Shimberg Center could become the central point for receiving and posting notices; it was emphasized that Shimberg would not have a legal responsibility to fulfill an owner's notice requirements (waiver language like that on the Texas Multifamily Clearinghouse website would be needed).

NEWLY CREATED HOUSING AUTHORITIES

- There is low awareness that there is a lack of funding
- These housing authorities needs administrative dollars, which are hard to find
- Chapter 421 would have to be amended to require start up funding if any new authorities were created
- With funding, these entities could be preserving 515 rural rental housing (funding for manpower and grant applications)
- The Workgroup also discussed the fact that expanding the capacity of non-profits overall, including rural non profits, to execute preservation deals could improve the ability of these entities to pursue grants and other applications.

CAPACITY BUILDING

- According to Stan Fitterman, 7 out of the 45 current Predevelopment Loan projects are in rural areas, sponsored by non profits and housing authorities; there are both single family and multi family developments but none are multifamily rehab.
- In rehab deals, the relocation costs can be a major barrier. 42 months of relocation costs are typical, and contingency costs are also high in anticipation of code driven re-designs for deals that take years to structure.
- Florida has non profits with experience in single family development and recent trends are pushing these entities to look in to multifamily development.
- Non profits with valuable properties may be feeling pressure to sell or convert for profits that can support other programs serving their target population.
- Non profits with experience in 202 and 811 properties are blocked in the Universal Application cycle by the requirement that development must be twice as large as the largest previous development. (**suggestion to Finance workgroup – consider total development portfolio rather than just a single deal**)
- PLP funds are not commonly used for land acquisition because of additional time. Entities are relying on other funding sources for this element.
- To enter Florida Housing's application process takes up front costs of \$250,000 and a readiness to proceed quickly if funding is given. This is a lot of money for non profits to have available and they are not always ready to move quickly.

Conclusions

- Mission driven organizations, which will maintain long term affordability, are going to be undertaking preservation deals. These groups will be non profits, Community Housing Development Organizations and certain for profits.
- Florida Housing Coalition has programs that can enhance non profit capacity to execute preservation deals. FHC should not be seen as the entity that would actually write grants or applications; there are groups that already do this work.

- The Study Commission should recommend an increase in funding to both the Catalyst and PLP programs. There is a need to quantify past successes and challenges of these programs, and the need for hands-on training, to support additional funding.
- Consider the creation of a pilot program that would provide “add-on” training for preservation deals. Elements of the add on training should include:
 - Property management training for non profits
 - Asset management if non profit is not doing their own property management
 - Less experienced non profits could go through core program before doing a preservation class while more experienced non profits could go through the advanced classes before doing the preservation classes
 - FHC Clinics may also be a mechanism for bringing programs to community groups, if locations and copying can be donated.

DATABASE

- The Preservation Affordable Housing Inventory can be used to develop a “short list” of properties that are going to expire within a certain number of years.
- Will also be the foundation of the education effort and outreach to advocates and providers on the rate of loss and expiration.

Bill O’Dell gave a brief review of the purposes for a preservation database and some updates on gathering information:

- Gathering data on the approaching loss of HUD and RD units. Shimberg is in conversation now with HUD about more frequent updates on Section 8 opt outs and mortgage prepayments. There is still a gap on HOME deals at the local level and on unsubsidized units. Commissioners suggested researching Apartment Association and Association of Realtor for notices regarding potential sales of properties.
- Still needs some guidance on the specific information about each development that should be provided:
 - Age of development
 - Number of units and the income streams from programs
 - Vacancy rates
 - Historical occupancy
 - Unit mix/set aside mix
 - Date of expirations
 - Type of owners
 - Comparables in the market
- Providing context for policy makers; to help quantify the story on loss of units.
 - Commissioners recommended that the raw data be packaged in a more user friendly categories. Could also be linked to FHC site.

ATTACHMENT C

Finance Workgroup Notes Nov. 2 and 3, 2005

Note to reader: The following scenarios apply current funding programs to a set of assumptions about the income and expenses for a preservation deal to determine if the current funding programs can make a preservation deal financially feasible.

Assumptions about Development to Be Preserved

100 units, with 20 1-bedrooms, 60 2-bedrooms and 20 3-bedrooms
ELI = \$14,000/year for a household of 2

Net Rents (including utilities)

Size of Unit	60% AMI (85 units)	30% AMI (15 units)
1-bedroom	\$505	\$264
2-bedroom	\$623	\$264 (for now, use this rent for all ELI units)
3-bedroom	\$707	\$264

Financial Assumptions (calculated on an annual basis)

	<u>For Profit</u>	<u>Non Profit</u>
Rent gross	\$ 676,000	\$676,000
Economic loss (7%)	(\$47,320)	(\$47,320)
Net rent	\$ 628,680	\$628,680
Other income (2.5-3.0%)	\$20,000	\$20,000
Total Income	\$ 648,680	\$648,680
Expenses ^[1] (\$4,000/unit; includes reserves)	(\$400,000)	(\$330,000)
Total Net Income	\$ 248,680	\$318,680

Financing Assumptions – 1.20 Debt Service Coverage Ratio (based on Fannie Mae underwriting)
For Profit: Available to service debt: \$207,000/year, allowing us to borrow \$2,850,000.
Non Profit: Available to service debt: \$265,567/ year, allowing us to borrow \$3,675,000.

Cost of Acquisition/Rehab

Acquisition (assuming \$50k/unit including 10% for land)	\$5,000,000
Rehab costs (assuming \$30k/unit for rehab)	\$3,000,000
Total cost for acquisition/rehab	\$8,000,000

Scenario #1: Bonds/4% HC

For a Bond/4% HC deal, \$6.5 million eligible basis x 3.4% = \$2 million available for equity

\$2,850,000 Bonds borrowed at 6.10%¹

\$2,000,000 4% HC equity

\$4,850,000 Total

\$3,150,000 The gap needed to fully finance the deal with \$8,000,000 in acquisition/rehab.

¹ A nonprofit would lower the expenses/unit to \$3,300/unit due to tax abatement.

¹ The 6.10% interest rate shown is an all in rate comprised of a base tax exempt rate of 4.75%, plus .90% credit enhancement fee, .40% issuer fee and a .05% trustee fee.

Scenario #2: Bonds/4% HC/SAIL

See Scenario above – need \$3.15 million to make the deal financially feasible. Using various SAIL loan interest rates, as described below, SAIL funding would provide the following amounts:

At 0%: \$3,150,000
At 1%: \$3,150,000
At 2%: \$2,072,700
At 3%: \$1,381,800

The above calculations show that SAIL funds, at 0% and 1% interest rates, will work to fill the \$3.15 million gap.

Under the current rule, both for and non profits pay 3% interest on a SAIL loan. The only developments that pay 1% interest on a SAIL loan are Farmworker, Homeless or Commercial Farmworker developments.

If HOME funds are used instead of SAIL, rents would be required to go down to 40% at 50% AMI, so more operational funding would be required, and additional requirements (Davis-Bacon, environmental studies, etc) would increase rehab costs. However, HOME interest rates are lower than SAIL: *Please see Scenario #5 for calculations*

- Non profit: 0% interest rate, with closing costs, underwriting fees and environmental assessment fees paid by Florida Housing.
- For profit: 1.5% interest rate with interest payments only from cash flow until the end of the loan term when a balloon payment of the principal is required.

Scenario #3: SAIL Only (for nonprofits)

\$7.5 million in total development costs (TDC) – this is a lower development cost because there are no bonds, therefore no issuance fees, etc.

Rent gross	\$ 676,000
Economic loss (7%)	(\$47,320)
Net rent	\$ 628,680
Other income (2.5-3.0%)	\$20,000
Total Income	\$ 648,680
Expenses (\$3,300/unit; includes reserves)	(\$330,000)
Total Net Income	\$ 318,680

- Nonprofits can ask for more than 25% in TDC, but would lose in leveraging in the Universal Application cycle
- Because of tax exemption which reduces expenses, NPs would have an additional \$700/unit/year in cash flow from lowered expenses (see footnote 1) \$700 x 100 units = \$70,000 – therefore, a new expense figure for NP: \$400,000 – 70,000 = \$330,000
- Assuming a 1.20 DSR yields \$265,567 to service the debt, allowing \$3,675,000 in debt
- No Housing Credits in this scenario

The \$265,567 available to service debt would underwrite a SAIL loan at a rate of 3%, to a maximum amount of **\$8,850,000** which is more than this scenario's TDC of \$7.5 million. This calculation is for illustrative purposes; under current Florida Housing policy a SAIL loan cannot exceed 25% of total development cost. **THIS ONE WORKS.**

Scenario #4: 9% HC

The total development costs for this scenario are also \$7.5 million because there are no bonds in this financing structure (to bring issuance costs, etc. to the mix)

4% HC on acquisition costs of \$4.5 million (use 3.42 multiplier)

9% HC on rehab costs – figure for \$2.5 million (use 8.1 multiplier)

Acquisition equity	\$1,385,000
Rehab equity	\$1,822,500
Total equity	\$3,207,500
Private Debt at 7.0%	\$2,600,000
Total available for deal	\$5,807,500

\$1,692,500 The gap needed to fully finance the deal

If we could use 9% HC for whole deal, we'd have another \$1.9 million, making the deal feasible. A gap exists because tax credits on the portion of the development allocable to acquisition are capped at 4%. The 10 year rule precludes receiving the 4% credit on the acquisition related portion of development cost unless the property has been owned for a 10 year period.

The amount of the developer fee is included in eligible basis which determines the amount of tax credits received. An increase in developer fee yields more tax credit equity. This equity may be used to pay construction or acquisition costs because the developer fee may be deferred and paid from cash flow.

For this scenario, if the developer fee on acquisition was changed from 4% to 16% (which equals a \$500,000 developer fee), it would bring an additional \$393,000 in equity to the deal, but the cost of the deal would go up, thus increasing the gap. A strategy for filling this gap would be to defer developer fee and pay it from property cash flow, rather than paying it at closing.

Scenario #5: HOME (can be used by for profit and non profit developers)

With HOME, developers are required to move rents down to 40% at 50% AMI, and there are additional requirements (i.e., Davis-Bacon, environmental studies,) which would increase rehab costs. Therefore, the total development cost for this scenario is \$8 million.

Financing Assumptions

Non Profits: 0% interest rate, with closing costs, underwriting fees and environmental assessment fees paid by Florida Housing.

For Profits: 1.1 DSC ratio; 1.5% interest rate, with interest payments only from cash flow until the end of the loan term when a balloon payment of the principal is required.

HOME Net Rents (including utilities)²

² Gross rent calculation for HOME scenario. Per HOME regulations, development must have proportional numbers of units to the AMI categories in the property.

60% AMI 60 percent of 20 1 BR units: 12x\$505
50% AMI 25 percent of 20 1 BR units: 5x\$491
30% AMI 15 percent of 20 1 BR units: 3x\$264

60% AMI 60 percent of 60 2 BR units: 36x\$623
50% AMI 25 percent of 60 2 BR units: 15x\$590
30% AMI 15 percent of 60 2 BR units: 9x\$264

60% AMI 60 percent of 20 3 BR units: 12x\$707
50% AMI 25 percent of 20 3 BR units: 5x\$681
30% AMI 15 percent of 20 3 BR units: 3x\$264

Size of Unit	60% AMI (60 units)	50% AMI (25 units)	30% AMI (15 units)
1-bedroom	\$505	\$491	\$264
2-bedroom	\$623	\$590	\$264
3-bedroom	\$707	\$681	\$264

These numbers need to be refined to show the proportional income from each AMI category

	Non Profit	For Profit
Rent gross	\$ 669,760	\$ 669,760
Economic loss (7%)	(\$46,740)	(\$46,740)
Net rent	\$ 620,964	\$ 620,964
Other income (2.5-3.0%)	\$20,031	\$20,031
Total Income	\$ 640,995	\$ 640,995
Expenses (includes reserves)	(\$330,000)	(\$400,000)
Total Net Income	\$ 310,995	\$ 240,995

Non Profits: At 1.1 DSC ratio and 0% interest rate, a nonprofit can borrow the total development costs.

For Profits: At 1.1 DSC ratio and 1.5% interest rate (and no principal payments until maturity), a for profit can borrow the total development costs.

CONCLUSIONS DRAWN FROM FINANCING SCENARIOS

- SAIL-Only: at the current interest rate of 3%, a SAIL-Only financing structure would cover the development costs for a non-profit. Generally, SAIL cannot exceed 25% of the total development costs of the project. It is possible to get an exception from this rule if the General Partner is a Non Profit and matching funds are provided (i.e., a county contribution).
- HOME-Only: at the lower interest rates, HOME-Only financing can also cover total development costs of the project. Non Profits also receive subsidy from Florida Housing in form of payment for certain fees and closing costs.
- SAIL as gap financing would work at 0% or 1% interest rates.
- Housing Credit-Only deals do not work, but can be blended with SAIL to work.
- Bonds with 4% Housing Credits do not work, but could with the addition of SAIL.
- Bonds work best when:
 - Property is held by same owner for more than 10 years, so the Housing Credits don't go against the state allocation
 - The property is larger (greater than 200 units)
 - Properties can be pooled to create a bond issue of over \$10 million, thus reducing the costs of issuance
 - Property is in a higher AMI county
- Mixed income deals:
 - Market rents have to offset the loss of Housing Credit equity
 - Work better when the market is "hot"
 - Are challenged by the "next available unit" rule

General Comments

Policy Question: Is the state willing to pay more than rents will support for the value of the property in order to preserve the property? The Commission should consider a recommendation to require appraisals on the market value rather than income value.

Question: If Florida financed the preservation of all units, how much would this cost? If the state did some sort of triage, how much would that cost, and what are the criteria for triage?

Rental Assistance Contracts

- The Finance Workgroup decided that it was unlikely any development would be able to get HUD exception rents equaling 150% of fair market rent.
- It was agreed that the more realistic approach would be to assume the rents that would be allowed by the financing program (such as Housing Credits), rather than fair market rents and it is important to remember that nonprofits could have budget based rents, on a case by case basis. These budget based rents may not be approved every year.

Acquisition Costs

In transactions where the value of the land is greater than the value of the buildings, acquisition costs are going to be higher than rehab costs.

Transition Reserves

Transition reserves may not be necessary where there are healthy operating reserves, but Amy Barry (Fannie Mae) indicated that a transition reserve is required in their underwriting standards.

Exit Taxes

Exit taxes should not be directly funded because current owners have already gotten profit and benefit in prior years. However, sometimes the cost of exit taxes will be a necessary part of acquisition costs.

INITIAL FINDINGS FROM REVIEW OF UNIVERSAL APPLICATION

Part II, B. Development Team:

- 1.C. Developer experience – last section is too restrictive; can have a senior developer who is not a principal.

Part III. Development:

- Definition of scattered sites is too limited for preservation purposes (*why has this been more restrictive?*)
- 3.b. (p.12) Indicate whether each building has 5 or more units – should be whole development, not each building
- P.13, #9 – in compliance at time of loan closing can pose problems

Proximity to Services: this one can sink a preservation deal

- Should only compare to other preservation deals (deals in downtown areas aren't close to schools, grocery stores, etc.)

Required features (p.14):

- Public transportation within ½ mile could limit SRO preservation deals

Optional features (p.15):

- Many options are space heavy and could be problematic for very urban sites. Would have to take out units which are really needed. Also look at section D. in this section. (available points range from 9-12)
- Section C (All Developments Except SROs) - consider adding “windows” as an option.